

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

CRP.No. 370 of 2007()

OS.155/1995 of SUB COURT, OTTAPPALAM
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REVN. PETITIONER:

RAMACHANDRAN NAIR,S/O.PADINHAKKARA
PUTHENVEETIL NARAYANI @ CHINU AMMA,
THRIKKADRI AMSOM AND DESOM,KARATTUKURUSSI,
OTTAPALAM TALUK.

BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI

RESPONDENTS:

1. RAMAKRISHNAN NAIR,
S/O.KARIYATTU PUTHENVEETIL NANI AMMA,
THRIKKADIRI AMSOM, KARATTUKURUSSI DESOM,
OTTAPALAM TALUK.
2. SARADA AMMA D/O.KARIYATTU
PUTHENVEETIL NANI AMMA,
THRIKKADIRI AMSOM, KARATTUKURUSSI DESOM,
OTTAPALAM TALUK.
3. MEENAKSHIKUTTY AMMA,
D/O.KARIYATTU PUTHENVEETIL NANI AMMA,
THRIKKADIRI AMSOM, KARATTUKURUSSI DESOM,
OTTAPALAM TALUK.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 30/05/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.No.370 OF 2007 E

Dated this the 30th May, 2007.

O R D E R

This revision is preferred against the order of the Subordinate Judge's Court, Ottapalam in I.A.234/2007 in O.S.155/95. The suit is one for recovery of possession on the strength of the title of the plaintiff. The suit is filed in the year 1995. It has been disputed by the defendants that the property is not identifiable and therefore the suit cannot be proceeded with. The plaintiff has taken out a commission and it is admitted by the plaintiff himself that with the present materials available he will not be able to proceed with the suit. Now the plaintiff wants to raise a contention that there are mistakes in the village records and those mistakes can be rectified by moving the village authorities and thereafter the plaintiff may be permitted to institute a fresh suit for recovery of possession on the strength of title. It has to be borne in mind that the suit is filed in the year 1995 and the plaintiff has proceeded as if he can get or succeed in establishing before the court his title to the property. He was convinced that the property is not identifiable. Therefore, it is not just and proper for the court to go on permitting the parties to withdraw the suit

and file one suit after the other, putting the other side into hardship. When a litigation is filed in the year 1995 it is expected from an ordinary prudent man that he will take all precautions and steps to establish his case before the court. If the parties are permitted to abandon half way after a decade and then be permitted to file another suit after making further evidence it will be defeating the interest of justice and the provisions of law. Therefore, I am satisfied that the Subordinate Judge, Ottapalam was absolutely correct in disallowing the prayer of the plaintiff to file a fresh suit after withdrawal of his case. So, the order does not suffer from any illegality or infirmity and therefore the C.R.P is dismissed.

M. N. KRISHNAN
Judge